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EXAMINER	
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ART UNIT	PAPER NUMBER
2623	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/026,835	BEST ET AL.	
	Examiner	Art Unit	
	MICHAEL VAN HANDEL	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 March 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *48-53,58-63 and 68-73* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *48-53,58-63 and 68-73* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This action is responsive to an Amendment filed 3/07/2008. Claims **48-53**, **58-63**, **68-73** are pending. Claims **48-50**, **58-60**, **68** are amended. Claims **1-47**, **54-57**, **64-67**, **74-77** are canceled.

Response to Arguments

1. Applicant's arguments regarding claims **48**, **58**, and **68**, filed 3/07/2008, have been considered, but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims **48-53**, **58-63**, **68-73** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Referring to claims **48**, **58**, and **68**, the examiner fails to find support for the phrase "the keyboard signal comprising the user identifier and instructing the computer to deactivate a screen

saver," as currently claimed. Applicant cites paragraph 35 and Fig. 2B as support for the phrase; however, the examiner notes that paragraph 35 recites deactivating a screen saver in response to a mouse movement signal, not a keyboard signal (paragraph 35 of Applicant's specification).

Further referring to claims **48**, **58**, and **68**, the examiner fails to find support for "executing the at least one action, the at least one action comprising i) instructing a set-top to turn on a television, ii) instructing the television to adjust a volume according to the user profile, iii) instructing the set-top box to select a channel according to the user profile, and iv) setting a timer to power off the television when the timer expires" in the context where presence is detected in the vicinity of a computer. Applicant cites paragraph 40, Table 3, and paragraph 43 (which explains how a computer can be a home entertainment server that is coupled to television, set-top box, stereo system); however, the examiner notes that paragraph 40 is directed towards an embodiment where the presence detector is coupled to television 850 and/or set-top box 852. It is noted in paragraph 40 that, when the presence detector determines that a user is in the vicinity of television 850 it can send a presence indication to the television and/or the set-top box (paragraph 40 of Applicant's specification).

Paragraph 43 explains that the computer can be a home entertainment server that is coupled to television 850, set-top box 852, stereo system 860, and other information delivery systems. Paragraph 43 then recites that, in an embodiment, when presence detector 855 determines that a user is in the vicinity of television 850, the presence detector 855 can send a presence indicator to computer 870. Computer 870 can determine whether any information delivery action is to be taken based at least in part on the presence indicator and the *source* of the presence indicator and send an information delivery action, if any, to television 850/set-top box

852 (italicized for emphasis)(paragraph 43 of Applicant's specification). That is, the detection is performed at detector 855 (at the television/set-top box) and the delivery action is performed based on the source of the presence indicator (television/set-top box). In the claim; however, the detection is performed at detector 260 at the computer, as described in a separate embodiment in paragraph 35 of Applicant's specification (paragraph 35 of Applicant's specification). As such, the examiner fails to find explicit support for detecting a user at the computer and performing television/set-top box related actions.

Such functionality also seems counter-intuitive in light of Applicant's specification, wherein computer-related actions are performed upon detection of a user at a computer (Table 2), television/set-top box related functions are performed upon detection of a user at a television/set-top box (Table 3), and stereo-related functions are performed upon detection of a user at a stereo (Table 4). The purpose of using the computer as a home entertainment server appears to be to store the information delivery actions for the information delivery systems in a single location.

Referring to claims **50** and **60**, the claims are rejected as being dependent on claims **48**, **58**, and **68**. The examiner further fails to find support for "specifying that a first executed action predominates over later actions, such that the later actions cannot conflict with the first executed action," as recited in claims 49 and 59, in light of the fact that claims 50 and 60 recite "specifying a predominate user over all other users, such that the actions specified by the other user's profiles can never conflict with the actions specified by the predominate user's profile" and are dependent on claims 49 and 59. Applicant's specification recites each of these in separate embodiments (paragraph 41 of Applicant's specification). Furthermore, it seems counter-

intuitive to include both of these functions in light of Applicant's specification. If both of these conflict determination rules were specified, the system would be confused as to which to prioritize in a case where a user's profile action is initiated first, but a predominate user's profile action is then initiated. As such, the examiner fails to find support for the amended phrase.

Referring to claims **49**, **51-53**, **59**, **61-63**, and **69-73**, the claims are rejected as being dependent on claims 48, 58, and 68.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims **48**, **49**, **58**, **59**, **68**, **69** are rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta et al. (Gutta et al. I hereinafter)(US 2002/0144259)(of record) in view of Given.

Referring to claims **48**, **58**, and **68**, Gutta et al. I discloses a method/system/computer readable media, comprising:

- transmitting an activation signal from a presence detector (step 405)(p. 2, paragraph 24 & Fig. 4);
- in response to the activation signal, receiving an identification signal at the presence detector, the identification signal comprising a user identifier that identifies a user (step 410)(p. 2, paragraph 24 & Fig. 4);

- querying for a user profile associated with the user identifier (p. 2, paragraphs 19, 20, 24, & Figs. 2, 4);
- accessing the user profile to determine at least one action to be executed in response to the user identifier (p. 2, paragraph 26 & p. 3, paragraph 27);
- executing the at least one action, the at least one action comprising:
    - i) instructing a set-top box to turn on a television;
    - ii) instructing the television to adjust a volume according to the user profile (p. 1, paragraph 15 & Figs. 2, 3);
    - iii) instructing the set-top box to select a channel according to the user profile (p. 1, paragraph 15); and
    - iv) setting a timer to power off the television when the timer expires (p. 1, paragraph 15 & Fig. 3).
- sending the user identifier to a presence database (p. 2, paragraphs 19, 20);
- querying the presence database for other user identifiers associated with the user identifier (p. 2, paragraph 20); and
- receiving presence updates identifying presence of other user identifiers (p. 2, paragraph 20 & Fig. 2).

Gutta et al. I does not specifically disclose the identification signal identifies a user associated with a transponder. Given discloses utilizing a radio transmitter and receiver combination, one on the user and one at a terminal, as a proximity sensor. Such a sensor could include a badge (containing a passive transponder) that is passed near a transmitter to detect a user's presence (col. 4, l. 17-35). It would have been obvious to one of ordinary skill in the art at the time that

the invention was made to replace the camera in the monitoring system of Gutta et al. I with radio transmitters and receivers, such as that taught by Given in order to reduce cost. The combination of Gutta et al. I and Given teaches entering a power save mode when the user remains away from the vicinity of the media player for a certain amount of time (Gutta et al. I p. 2, paragraph 23 & Fig. 3). The combination of Gutta et al. I and Given does not specifically teach transmitting an activation from the presence detector to an interface unit connected in a series connection between a computer and a keyboard and sending a keyboard signal from the interface unit over the series connection to the computer, the keyboard signal comprising the user identifier and instructing the computer to deactivate a screen saver. Given discloses providing the sensor by connecting it to a keyboard interface 200 serially connected to a keyboard and a computer (Fig. 1). In this way, the keyboard interface can act by sending an artificial "keystroke" in the same manner as a keyboard signal (col. 2, l. 14-18). As long as the user stays within close proximity to the computer, the screen saver is deactivated, but if the separation between the transmitter and receiver becomes great enough, the screen saver is activated (col. 2, l. 15-20 & col. 4, l. 22-25). It would have been obvious to modify the personal computer sensing system in the combination of Gutta et al. I and Given to include connecting the sensors to a keyboard interface connected serially to a keyboard and computer and to further deactivate a screen saver in response to a user's proximity, such as that taught by Given in order to allow easy implementation of actions through a commonly used interface.

NOTE: The USPTO considers the applicant's "at least one" language to be anticipated by any reference containing any of the subsequent corresponding elements.

Referring to claims **49**, **59**, and **69**, the combination of Gutta et al. I and Given teaches the method/system/computer readable media according to claims 48, 58, and 68, respectively, further comprising specifying that a first executed action predominates over later actions, such that the later actions cannot conflict with the first executed action (if an event is detected, that event is processed. Program control is not returned until the event has been processed)(Gutta et al. I p. 2, paragraph 26; p. 3, paragraph 27; & Fig. 4).

3. Claims **50**, **51**, **60**, **61**, **70**, **71** are rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta et al. I in view of Given and further in view of Gutta et al. (Gutta et al. II hereinafter)(US 2002/0194586)(of record).

Referring to claims **50**, **51**, **60**, **61**, **70**, and **71**, the combination of Gutta et al. I and Given teaches the method/system/computer readable media according to claims 49, 59, and 69, respectively. The combination of Gutta et al. I and Given does not teach specifying a predominate user over all other users, such that the actions specified by the other users' profiles can never conflict with the actions specified by the predominate user's profile. Gutta et al. II discloses a system for multi-user profile generation (see Title). Gutta et al. II further discloses that a user may rank combinatorial preferences that dictate how to handle preferences of a user in light of other users who may be present in a television viewing area (p. 2, paragraph 21). For example, each user could be weighted differently, such that preferences of certain users are taken into account more than the preferences of other users (p. 3, paragraph 29). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the user profiles in the combination of Gutta et al. I and Given to weight a user, such that the user's

preferences are taken into account more than the other users, such as that taught by Gutta et al. II in order to create viewing recommendations based on user preferences that depend on predetermined weighting factors set by users (Gutta et al. II p. 1, paragraph 10).

4. Claims **52**, **62**, **72** are rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta et al. I in view of Given and further in view of Stas et al. (of record).

Referring to claims **52**, **62**, and **72**, the combination of Gutta et al. I and Given teaches the method/system/computer readable media according to claims 48, 58, and 68, respectively. The combination of Gutta et al. I and Given does not teach that executing the at least one action comprises denying access to the computer when an aggregate amount of access is exceeded. Stas et al. discloses a system in which a total time limit on the number of viewing hours per day, week, or month can be set (col. 8, l. 18-27). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the combination of Gutta et al. I and Given to include setting a time limit on the number of viewing hours, such as that taught by Stas et al. in order to allow a parent a comprehensive and user-friendly control for permitted viewing times for a predetermined future time period (Stas et al. col. 1, l. 65-67 & col. 2, l. 1-2).

5. Claims **53**, **63**, **73** are rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta et al. I in view of Given and further in view of Robarts et al. (of record).

Referring to claims **53**, **63**, and **73**, the combination of Gutta et al. I and Given teaches the method/system/computer readable media according to claims 48, 58, and 68, respectively. The combination of Gutta et al. I and Given does not teach that executing the at least one action

comprises requesting information from a webpage. Robarts et al. discloses using a combination of explicit and implicit user context modeling techniques to identify and provide appropriate computer actions based on a current context (see Abstract). Robarts et al. further discloses setting sets of attributes and rules related to a common theme (col. 22, l. 40-57). Robarts et al. still further discloses an Entertainment theme, which can act to retrieve a user's favorite web sites, television channels, etc. (col. 23, l. 5-8). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the profile actions in the combination of Gutta et al. I and Given to include retrieving a user's favorite web sites, such as that taught by Robarts et al. in order to provide a computer system with a better appreciation of a user's context (Robarts et al. col. 1, l. 37-38).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL VAN HANDEL whose telephone number is (571)272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/
Supervisory Patent Examiner, Art Unit 2623

MVH